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SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557 - 3686

October 12, 1979

TO: All Commissioners and Alternates
FROM: Michael B. Wilmar, Executive Director

SUBJECT: BCDC CONSISTENCY CERTIFICATION NO. CC 16-79;
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(For Commission consideration on October 18, 1979)

Attached is the Staff Recommendation for Consistency Certification No. CC 16-79, submitted by the Southern Pacific Transportation Company, which requests Commission concurrence that the uses and activities in its proposed lease of approximately 30 acres of the Oakland Army Base are consistent with the Commission's Management Program for San Francisco Bay.

A public hearing was held on this matter on July 19, 1979. A Staff Summary of this Consistency Certification was mailed to all Commissioners and Alternates on July 6, 1979. Because more than five weeks have elapsed since the public hearing, the Commission's Regulations require a second public hearing. The Regulations also provide that in cases where the Commission holds an additional public hearing, the vote may occur at the same meeting.

Therefore, the attached Staff Recommendation will be formally presented to the Commission after the close of the scheduled public hearing.

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SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557 - 3686

October 12, 1979

TO: All Commissioners and Alternates
FROM: Michael B. Wilmar, Executive Director

SUBJECT: STAFF RECOMMENDATION ON CONSISTENCY CERTIFICATION NO. CC 16-79; SOUTHERN PACIFIC TRANSPORTATION COMPANY
(For Commission consideration on October 18, 1979)

The staff recommends the adoption of the following resolution:

The Commission CONCURS with Alternative No. 1 and Alternative No. 2 of Consistency Certification No. CC 16-79, as limited below. The findings upon which these decisions are based are contained herein.

I. Work and Uses Proposed

The Southern Pacific Transportation Company requests concurrence in Consistency Certification No. CC 16-79 that the uses and activities proposed in two alternatives for the lease of approximately thirty (30) acres of the Oakland Army Base, as described in the Southern Pacific Transportation Company-Port of Oakland Agreement, dated August 27, 1979 (see Appendix A), are consistent with the Commission's Management Program for San Francisco Bay, as approved by the U. S. Department of Commerce, pursuant to the Federal Coastal Zone Management Act of 1972, as amended.

A. Alternative No. 1. In this alternative, Southern Pacific proposes to relocate an existing 44-acre automobile handling rail facility from Southern Pacific property at the nearby West Oakland Rail Yard to the proposed lease area. The existing 35-acre intermodal-container rail operation at the West Oakland Rail Yard would then be expanded into the 44-acre Southern Pacific property vacated by the relocation of the automobile handling facility.

B. Alternative No. 2. In this alternative, Southern Pacific proposes to move all of its intermodal-container rail operations now at the West Oakland Rail Yard to the proposed lease area. The automobile handling facility would remain at its present location at the West Oakland Rail Yard. The remaining, vacated portion of this yard would be use for further expansion of container operations. Southern Pacific presented this alternative only if the Commission does not concur in the consistency of the uses and activities proposed in Alternative No. 1.

II. Findings and Declarations

A. Federal Coastal Zone Management Act of 1972, As Amended. Under Section 307(c)(3) of the Federal Coastal Zone Management Act of 1972, as amended, "any applicant for a required federal license or permit to conduct an activity affecting land or water uses in the coastal zone of [a] state" must submit a certification to the State that the proposed activity is consistent with the State's approved coastal zone management program. The proposed lease by the Department of the Army of portions of the Oakland Army Base is a "federal license or permit" for which Commission concurrence in the certification is necessary.

In its Management Program, approved by the U. S. Department of Commerce, the Commission defined its segment of the California coastal zone to be the area of BCDC's permit jurisdiction. Although the proposed lease area lies outside the area of BCDC's permit jurisdiction, it does lie within an area designated in the Bay Plan for port and related industrial uses. These and similar priority use designations were placed in the Bay Plan (which is the core of the Commission's Management Program) to reduce future pressures for filling the Bay by reserving shoreline sites particularly well-suited for the high priority, water-oriented uses identified in the Plan and the BCDC law. Therefore, the Commission hereby finds that the proposed lease of portions of the Oakland Army Base that are designated for port and related industrial uses will clearly "affect" the BCDC segment of the coastal zone because non-port and related industrial uses of the subject property will increase future pressures to fill the Bay.

B. The San Francisco Bay Plan. The Commission concurs that the proposed uses and activities contained in Southern Pacific's Alternative Nos. 1 and 2 are consistent with the Commission's Management Program. The uses and activities specified in the agreement constitute port or related industrial activities and are, therefore, consistent with the applicable Bay Plan policies and the priority use designation for the Oakland Army Base.

1. Bay Plan Policies and Map. Bay Plan Policy No. 6 on Ports (page 20) states, in part, that "Port areas on the shores of the bay should be able to include within their premises marine terminals and directly-related ancillary activities such as warehousing and other temporary storage, ship repairing, support transportation uses including trucking and railroad yards, freight forwarders, government offices related to the port activity, chandlers and marine services.. ." Furthermore, Bay Plan Policy No. 5 on Ports (page 20) requires that any additional port facilities required for special ship-to-train transferring, such as those now needed for container operations, should be provided with as little filling as possible. Bay Plan Map No. 4, as amended November 18, 1971, designates the proposed lease area for port-priority use. A Plan Map note states: "Oakland Army Base and Naval Supply Center - Some fill may be needed for Army Base. If and when not needed by military, first consider port and related industrial uses."

2. Consistency of Alternative No. 1. Alternative No. 1 would relocate an existing automobile handling rail facility to the proposed lease area from the 44-acre area adjacent to the existing intermodal-container rail yard. Approximately 10 percent of the automobiles now processed through this facility are exported through the Port of Oakland, and this figure is projected to increase in the future. The existing 35-acre intermodal-container rail operation at the West Oakland Rail Yard would then be expanded into the 44-acre parcel vacated by the relocation of the automobile handling facility. The result of this relocation would be an additional 44 acres of land devoted to the intermodal rail yard for clearly port-related purposes. As the 44 acres are next to the existing intermodal rail yard, the expanded rail yard will be able to handle port-related traffic more efficiently than splitting the rail yard into two locations as proposed in Alternative No. 2.

The project, as described in the agreement between Southern Pacific and the Port of Oakland and as summarized in the Appendix, limits Southern Pacific's use of the Oakland Army Base property to automobile handling or port-related purposes and limits the use of the vacated 44-acre parcel to intermodal train operations. If those terms are violated, the Port becomes the assignee of the Southern Pacific lease on the Oakland Army Base property. The Port also has the right to take over the Army Base property in the event that Southern Pacific no longer uses it.

The project also contains provisions prohibiting Southern Pacific from discriminating against port traffic in operations or in tariff proposals. In addition, nearly 50 acres of additional Southern Pacific property (mainly small parcels scattered throughout the port; see Appendix), are made available to the Port if Southern Pacific or its subsidiaries do not use those parcels.

Therefore, the project would relocate an existing non-port use from one part of the port-priority area to another, but with the result that more land would be made available for port-related purposes in a more efficient location. The additional provisions of the project as described in the agreement will further the port-related nature of Southern Pacific's rail operations to the benefit of the Port.

Because the agreement upon which this alternative is proposed not only guarantees that the use of the vacated 44-acre parcel at the West Oakland Rail Yard will be used for maritime container purposes, but also makes additional lands available to the Port, significantly more acreage will be available ultimately to be used to expand port operations at inland sites. Furthermore, if any breach occurs in the agreement, the Port has the ability to take over the Army's lease and operate the proposed lease area in a manner certified by the Commission as consistent with its Management Program. Therefore, the use of the lease area for the activities proposed by Southern Pacific, as provided for in the Southern Pacific-Port Agreement, will reduce pressures for further Bay fill at the Port by permitting the expansion of

supporting facilities to the Port at inland locations. The Commission finds and declares that the uses and activities proposed in Alternative No. 1 are consistent with the San Francisco Bay Plan, the McAteer-Petris Act and the Commission's Management Program.

5. Consistency of Alternative No. 2. Alternative No. 2, as described in the Southern Pacific-Port Agreement, dated August 27, 1979, would locate the intermodal-container rail operations of Southern Pacific at the proposed lease area. These operations cover the transfer of cargoes from ships at the Port of Oakland to Southern Pacific rail cars for shipment to inland points. Because these operations involve temporary storage of containers and support transportation uses needed to transfer port cargoes to inland areas, the Commission finds that this proposed use is a directly-related ancillary activity to marine terminal uses of the Port of Oakland. The use of the proposed lease area for these activities will reduce pressures for further Bay fill at the port by permitting the expansion of supporting facilities to the port at inland locations. Therefore, the Commission finds that the uses and activities proposed in Alternative No. 2 are consistent with the San Francisco Bay Plan, the McAteer-Petris Act, and the Commission's Management Program.

C. Limitations. The consistency certifications concurred with herein are for, and only for, the uses proposed for the lease area by the Southern Pacific Transportation Company, as specified in the Southern Pacific-Port Agreement. While other uses not included in the certifications may be consistent with the Commission's Management Program, such uses are not included in this concurrence and it is limited to the uses specifically proposed. If a Federal lease were obtained by the Southern Pacific Transportation Company that authorizes uses other than those certified herein, the Commission's ability to ensure compliance with this determination will be limited to costly and time consuming litigation and will require continual inspection of areas beyond the boundaries of the Commission's permit jurisdiction. This would burden the Commission's existing enforcement capabilities and would interfere with the administration of its Management Program. The risk of these enforcement difficulties is greatly reduced, however, by the nature of the Southern Pacific-Port Agreement, which is in the Port's interest to strictly enforce. Nevertheless, the Commission specifically finds and declares that its concurrence with these consistency certifications is limited to the issuance by the Army of a lease that:

a. Restricts the authorized uses of the leased premises to those uses specified in these consistency certifications, as described in the Southern Pacific-Port Agreement; and

b. Is subject to assignment to the Port of Oakland, as specified in the Southern Pacific-Port Agreement, upon use for any other purpose unless another consistency

certification is concurred in, by or on behalf of the Commission authorizing such uses.

D. Environmental Impact. Pursuant to the California Environmental Quality Act of 1970, and the Commission's Regulations, the Commission analyzed this concurrence in terms of the possible impacts on the environment. No significant short- and long-term adverse environmental impacts of this concurrence have been identified. No reasonable project alternatives were found which would have less adverse impact on the environment. In fact, by limiting the use of the proposed lease area to port-related activities, a beneficial environmental impact will occur in that such limitation would reduce the pressures for filling the Bay at the Port of Oakland. Furthermore, concurrence in these consistency certifications would not cause an irreversible environmental change. Moreover, the Commission's concurrence, as limited herein, will provide that the uses and activities to occur in the leased area will be in conformance with the Commission's Management Program. Therefore, the Commission finds that this concurrence will not have a significant adverse impact on the environment.

APPENDIX A

SUMMARY OF SOUTHERN PACIFIC TRANSPORTATION COMPANY - PORT OF OAKLAND AGREEMENT

An agreement, dated August 27, 1979, was entered into by the Port of Oakland and the Southern Pacific Transportation Company as a compromise and settlement of litigation. Southern Pacific has incorporated that agreement into the description of the project for which they are requesting the Commission's determination of consistency on the basis that it more specifically describes their intended project. A summary of this agreement, as it applies to the Commission's Consistency Certification No. CC 16-79, follows.

I. Alternative No. 1

If the Army awards a lease to Southern Pacific for Alternative No. 1, the agreement would require Southern Pacific to use the 30-acre Army property for motor vehicle handling and ancillary purposes or for port maritime container purposes only. It further would require that the 44-acre Southern Pacific property presently used for motor vehicle handling (to be vacated by the relocation of this use to the Army property), be used exclusively for intermodal-container traffic use.

II. Alternative No. 2

If the Army awards a lease to Southern Pacific for Alternative No. 2, the agreement would require Southern Pacific to use the 30-acre Army property for port maritime container purposes. However, it would be understood that there may be containers using this facility which are not maritime-related. Such non-maritime container traffic would be limited to no more than 30 percent of the total container traffic in any 12-month period. Furthermore, Southern Pacific's existing 35-acre intermodal-container yard would be limited by the agreement to intermodal traffic use only.

III. Other Terms of the Agreement

In addition to the requirements stated above, the following terms are included within the agreement:

A. Breach of the Agreement. If the agreement is not honored by Southern Pacific, the Port may use, as Southern Pacific's assignee, the bulk of the Army property, or Southern Pacific can nominate other Southern Pacific lands in the Harbor area of the same or better size, location and usability for port use.

B. Discrimination. Southern Pacific would not discriminate in handling port maritime traffic in favor of domestic intermodal traffic. Furthermore, Southern Pacific would not support nor propose any discriminatory tariffs affecting port maritime container traffic.

C. Additional Lands (see maps attached to this appendix). Southern Pacific would grant options to acquire, lease or nominate lessees to the following areas, totalling almost 50 acres of land:

1 Middle Harbor Road

a. Southern Pacific would grant to the Port a 10-year option to acquire 4.4 acres of the road for the purpose of eventually widening Middle Harbor Road to four lanes at no cost.

b. Southern Pacific would grant to the Port a 10-year option to acquire 6.9 acres of properties adjacent to the road.

c. Purchase price would be the fair market value of the properties in question.

2. Other Parcels

a. Southern Pacific would grant to the Port rights to purchase, lease or nominate lessees to the following parcels of Southern Pacific land in Oakland designated Parcels 1, 1A, 2, 2A, 3, 3A, 4, 6, 11, 11A, 12, and 13, on right of first refusal basis unless Southern Pacific or its subsidiaries use the property.

b. The costs associated with purchase or lease would be fair market value.

c. These options would terminate if the Port obtains control of the Army property.

3. Parcels 5 and 5A. Southern Pacific would attempt to relocate present lessees in Parcels 5 and 5A, and the Port would have the right to purchase or lease such areas if they become vacant.

4. Wood Street Passenger Station. If Southern Pacific elects to sell the property containing this station, the Port would have the right of first refusal to purchase.

5. Army Property, Parcels 7 and 8. The Port has the right of first refusal to sublease these parcels from Southern Pacific, unless Southern Pacific or its subsidiaries uses the land.

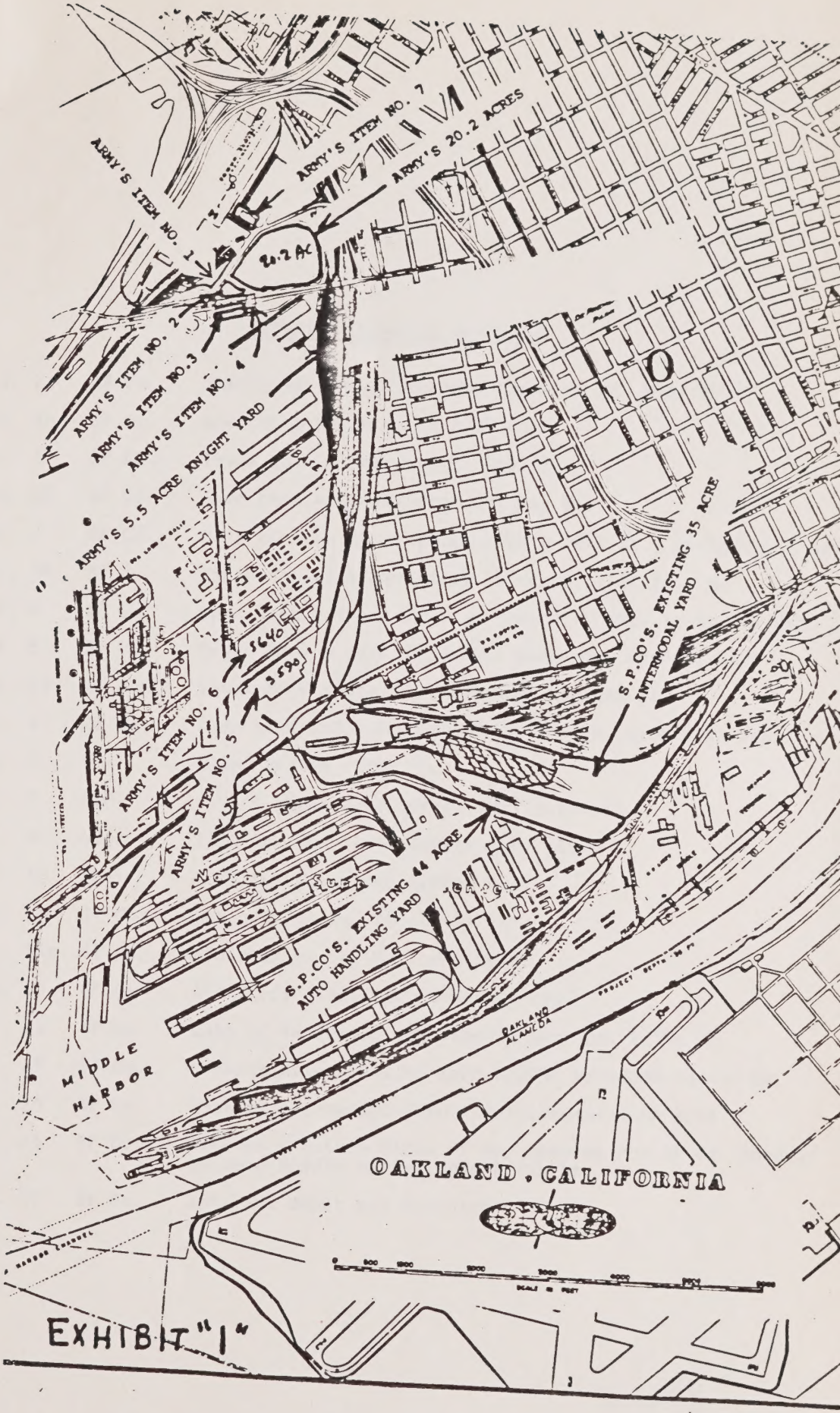
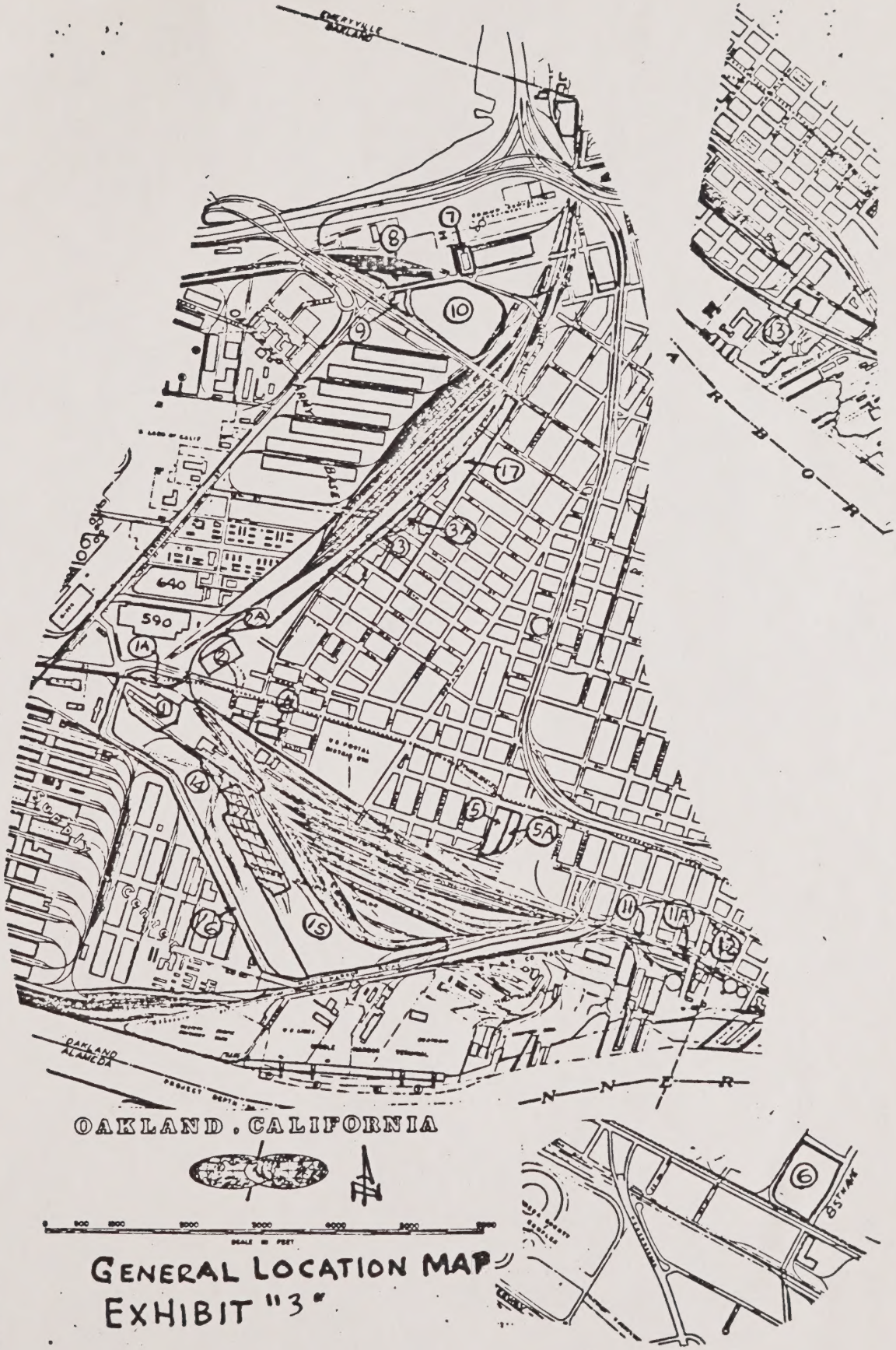

ARMY'S ITEM NO. 1
ARMY'S ITEM NO. 7
ARMY'S 20.2 ACRES
20.2 AC
ARMY'S ITEM NO. 2
ARMY'S ITEM NO. 3
ARMY'S ITEM NO. 4
ARMY'S 5.5 ACRE KNIGHT YARD
S.P.CO'S. EXISTING 35 ACRE INTERMODAL YARD
1640
3590
ARMY'S ITEM NO. 6
ARMY'S ITEM NO. 5
S.P.CO'S. EXISTING 44 ACRE AUTO HANDLING YARD
MIDDLE HARBOR
OAKLAND ALAMEDA
OAKLAND, CALIFORNIA

EXHIBIT "1"

PARCELS SHOWN ON SKETCHES

Pcl. 1	SP Co.	Warehouse & Adjacent Yard South of 7th E/SP Rd.
Pcl. 1A	SP Co.	Open Area S/7th St. & E/SP Rd.
Pcl. 2	SP Co.	Truck Dock & Yard at 737 Bay St.
Pcl. 2A	SP Co.	Open Area westerly from 737 Bay St.
Pcl. 3	SP Co.	West of Wood St. between 12th & 16th St., excluding 14th
Pcl. 3A	SP Co.	Expansion Area contiguous & westerly of Pcl. 3.
Pcl. 4	SP Co.	Open Area between Cedar & Pine Sts. adj. to Postal Svc.
Pcl. 5	SP Co.	Truck Dock & yard S/5th St. East side Cypress St.
Pcl. 5A	SP Co.	Truck Dock s/5th St. West side Kirkham St.
Pcl. 6	SP Co.	Open Area E/San Leandro St. & WPRR N. side 85th Ave.
Pcl. 7	USA	Bldg. S-1011 (Item 7)
Pcl. 8	USA	2.5 Ac. Open Area N/Wake Ave. (Item 1)
Pcl. 9	USA	1.13 Ac. Open Area S/Wake Ave. (Item 2)
Pcl. 10	USA	20.2 Ac. Open Area S/Wake Ave.
Pcl. 11	SP Co.	Strip S/1st St. Linden-Myrtle.
Pcl. 11A	SP Co.	Strip S/1st St. Myrtle-Market.
Pcl. 12	SP Co.	80' Strip S/1st St. Market-Castro.
Pcl. 13	SP Co.	East of Fallon St. between Victory Ct. & 1st St.
Pcl. 14	SP Co.	Present Auto Handling Yard E/SPRD N/Middle Harbor Rd.
Pcl. 15	SP Co.	Present Intermodal Yard & Maintenance Shop Area.
Pcl. 16	SP Co.	Present & Future Right of Way Reserve For SP Co. Roadway between Middle Harbor Road & 7th St.
Pcl. 17	SP Co.	16th St. Depot and Vicinity.

EXHIBIT 2



GENERAL LOCATION MAP
EXHIBIT "3"

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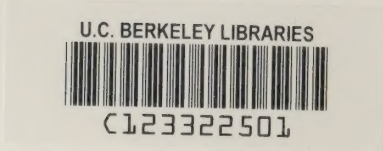

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